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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of

Examiner: Alicia M. Torres

Robert A. Matousek, et al.

Group Art Unit 3671

Serial No.: 10/619,972

:

Filed: July 15, 20:03

.

For: CABARRANGEMENT FOR

BIARVES'TING COMBINE

:

Last Office Action dated April 28, 2005

Mail Stop Amendment Commissioner for Patents P.O. Box 1450 Alexandria, Virgunia 22313-1450

CERTIFICATE OF TRANSMISSION (37 CFR 1.8(a))

I hereby verify that this DECLARATION OF JONATHAN E. RICKETTS UNDER 37 C.F.R. § 1.132 (along with any paper referred to as being attached or enclosed) is being sent vite first Class Mult under 37 C.F.R. 1.8 to Mail Stop Amendment, Commissioner for Patents. P.O. Box 1450, Alexandria, Virginia 22313-14501 on July 18, 2005.

DABA 974 VV Brani T Maurer Reg. No. 53,283

DECLARATION OF JONATHAN E. RICKETTS UNDER 37 C.F.R. § 1.132

Dear Sir.

I, Jonathan E. Ricketts, hereby state as follows.

1. I have worked in the employ of CNH America LLC ("CNH") for thirty-three (33) years and am currently employed thereby. My current title is "Combine Project Test Engineer."

Patent Application Serial No. 10/619,972 Declaration of Jonathan E. Ricketts under 37 C.F.R. §1.132 July 18, 2005

- 2 I am a joint inventor of the above-identified Patent Application, having Serial No. 10/619.972 (the "972 Application"), titled "Cab Arrangement for Harvesting Combine", also including Robert A. Matousek as inventor. I have recently reviewed and understand the Claims of the '972 Application as they are currently pending. I am, therefore, familiar with the inventions disclosed therein. A copy of the pending Claims is attached hereto as Appendix A.
- 3. I am also a joint inventor of U.S. Patent No. 6,875,103 (the "103 Patent"), titled "Apparatus and Method for Installing and Removing a Harvesting Combine Rotor", also including Robert A. Matousek and Mark Epperly as inventors. I have recently reviewed and understand the entire Specification, Drawings, and Claims of the "103 Patent. I am, therefore, familiar with the disclosure contained therein, and the inventions disclosed thereby. A copy of the "103 Patent is attached hereto as Appendix B.
- I, Jonathan E. Ricketts, along with Robert A. Matousek, conceived of the cab platform arrangement as disclosed by Figures 1-13 of the '103 Patent and, more generally, a cab platform arrangement having a rear platform portion positioned between the space between the cab and the combine body to allow an operator to visually monitor and access the combine, the platform further including at least one side platform portion connected to the rear platform portion, the at least one side platform portion extending forward along a side of the cab.

Patent Application Serial No. 10/619,972
Declaration of Jonathan E. Ricketts
under 37 C.F.R. §1.132
July 18, 2005

- Mark Epperly, joint inventor of the '103 Patent, aided only in conception of a viable manner of raising and/or lowering the combine harvester cab, more specifically, the apparatus and method for raising and lowering the combine harvester cab to create sufficient clearance to allow for the installation and removal of a harvesting combine rotor. Mark Epperly did not conceive of the cab platform arrangement apparatus as disclosed by Claims 1-16 and 21 of the '972 Application. Mark Epperly further did not conceive of the method of visually monitoring a harvesting combine using the cab platform arrangement of Claims 1-16 and 21, as disclosed by Claims 17-20 of the '972 Application.
- 6. The Examiner has rejected Claims 1-21 of the '972 Application as being anticipated under 35 U.S.C. § 102(e) by the '103 Patent.
- 7. However, the Examiner has noted that the above rejection under 35 U.S.C § 102(e) can be overcome "by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference [i e. the '103 Patent] was derived from the inventor of this application [i e. the '972 Application] and is thus not the invention 'by another'". (See Fage 2 of the Office Action mailed April 28, 2005.) A copy of the April 28, 2005 Office Action is attached hereto as Appendix C.
- Accordingly, I, Jonathan F. Ricketts, unequivocally state that I am a first and joint inventor, along with Robert A. Matousek, of the cab platform arrangement apparatus, and method of visually monitoring a combine harvester using the cab platform

Patent Application Serial No. 10/619,972 Declaration of Jonathan E. Ricketts under 37 C.F.R. §1.132 July 18, 2005

arrangement apparatus, as claimed within pending Claims 1-21 of the '972 Application, the inventive embodiments being disclosed, but not claimed, by Figures 1-13 of the '103 Patent.

- I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information are believed to be true; and further that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of any patent that may issue from this application.
- 10. In light of the above unequivocal, truthful statements, it is hereby asserted that rejection of Claims 1-21 of the '972 Application as being anticipated under 35 U.S.C. § 102(e) by the '103 Patent is inappropriate because the invention has not been described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the application for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent (See 35 U.S.C. § 102(e))

FURTHER DECLARANT SAYETH NOT:

Jonathan E Ricketts

Combine Project Test Engineer

CNH America LLC

500 Dille: Avenue

New Holland, Pennsylvania 17557

3 14. 2005



IN THE CLAIMS

1

- 1. (Previously Presented) A harvesting combine comprising:
- a body including a housing extending longitudinally along, and relative to, a
- 3 forward direction of travel of the harvesting combine, the housing having a front wall
- 4 extending generally transverse to the longitudinally extending body and a rotary
- 5 threshing assembly including a rotor having a front end located in front of the front wall;
- a longitudinally extending cab in front of and spaced-apart from the front wall, the
- 7 longitudinally extending cab having at least one longitudinally extending side; and
- a platform comprising a rear platform portion, the rear platform portion positioned
- 9 in the space between the cab and the body, the rear platform portion extending along the
- front wall, which is generally transverse to the longitudinally extending body, wherein
- the cab, the body, and the rear platform portion define a passageway to allow an operator
- to visually monitor and access the body from the platform, the passageway and the rear
- platform portion extending over the front end of the rotor, the platform further including
- at least one side platform portion connected to the rear platform portion, the at least one
- side platform portion located beside, and extending along, the at least one longitudinally
- extending side of the cab, wherein the rear platform portion and the at least one side
- platform portion comprise at least one generally L-shape embodiment when viewed from
- 18 above.

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- 2. (Previously Presented) The apparatus of claim 1 wherein the cab is supported on
- the combine by a linkage assembly movable for moving the cab upwardly and rearwardly
- 3 into the space and adjacent to the front wall.

- 1 3. (Previously Presented) The apparatus of claim 1 wherein the rear platform
- 2 portion is removable to allow the cab to be positioned in the passageway above the front
- 3 end of the rotor.
- 1 4. (Previously Presented) The apparatus of claim 3, wherein the rear platform
- 2 portion between the cab and the body is located at a higher elevation than the at least one
- 3 side platform portion.
- 1 5. (Original) The apparatus of claim 1, wherein the passageway has a width of
- 2 approximately 18-20 inches.
- 1 6. (Previously Presented) The apparatus of claim 4 wherein the rear platform
- 2 portion is supported on a bridge which has a generally inverted U-shape which extends
- 3 over and defines a space containing the front end of the rotor.
- 7. (Previously Presented) The apparatus of claim 6 wherein the bridge supports at
- least one step at an elevation between the rear platform portion and the at least one side
- 3 platform portion.
- 1 8. (Previously Presented) The apparatus of claim 7 comprising two of the at least
- 2 one side platform portions beside opposite longitudinally extending sides of the cab,
- 3 respectively, the side platform portions and the rear platform portion together having a U-
- 4 shape when viewed from above.
- 9. (Previously Presented) The apparatus of claim 8 wherein the cab includes a back
- 2 wall, the back wall including a transparent window to provide the operator with enhanced
- 3 visibility behind the cab.

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- 1 10 (Original) The apparatus of claim 1 wherein the platform includes a railing
- 2 extending upward from the platform and along an outer perimeter of the platform.
- 1 11. (Previously Presented) The apparatus of claim 1 wherein the combine includes a
- 2 frame, the platform being attached to the frame.
- 1 12. (Original) The apparatus of claim 1 wherein the platform is positioned above two
- 2 front wheels of the combine.
- 1 13. (Original) The apparatus of claim 1 wherein the cab includes a curved transparent
- 2 front panel.
- 1 14. (Previously Presented) The apparatus of claim 13 wherein the curved transparent
- 2 front panel is comprised of glass.
- 1 15. (Original) The apparatus of claim 1 wherein the body includes a housing and
- 2 operating equipment.
- 1 16. (Previously Presented) The apparatus of claim 15 wherein the operating
- 2 equipment includes a loop elevator assembly and a grain tank.
- 1 17. (Previously Presented) A method for visually monitoring a harvesting combine
- 2 comprising:
- providing a harvesting combine including a longitudinally extending body,
- 4 relative to a forward direction of travel of the harvesting combine, the body including a
- 5 housing and operating equipment including at least a grain tank, a longitudinally
- 6 extending cab spaced-apart from and in front of the body, the longitudinally extending

- 7 cab having at least one longitudinally extending side, a platform including at least one
- side platform portion positioned beside the cab and extending along the at least one
- 9 longitudinally extending side of the cab, and an elevated back platform portion connected
- 10 to the at least one side platform portion and positioned between the cab and the body at
- an elevation higher than the side platform portion, wherein the cab, the body, and the
- 12 elevated back platform portion define a passageway; and
- visually monitoring the operating equipment from the elevated back platform
- 14 portion.
- 1 18. (Previously Presented) A method for visually monitoring a harvesting combine
- 2 comprising:
- providing a harvesting combine including a longitudinally extending body,
- 4 relative to a forward direction of travel of the harvesting combine, the body including a
- bousing and operating equipment including a grain tank, a longitudinally extending cab
- 6 spaced-apart from and forwardly of the body, the longitudinally extending cab having at
- 7 least one longitudinally extending side, a platform including at least one side platform
- 8 portion positioned beside the cab and extending along the at least one longitudinally
- 9 extending side of the cab, and an elevated back platform portion connected to the at least
- one side platform portion and positioned between the cab and the body wherein the cab,
- the body, and the elevated back platform portion define a passageway; and
- accessing the operating equipment from the elevated back platform portion.
- 1 19. (Original) The method of claim 18 wherein the cab includes a back wall, the back
- 2 wall including a transparent window; and

- 3 visually monitoring the operating equipment from the cab.
- 1 20. (Original) The method of claim 19 wherein the transparent window is comprised
- of glass.
- 1 21. (Previously Presented) A cab arrangement for a harvesting combine comprising:
- a harvesting combine including a longitudinally extending body, relative to a
- forward direction of travel of the harvesting combine, having a grain tank;
- a longitudinally extending cab spaced-apart from the grain tank, the longitudinally
- 5 extending cab having opposite longitudinally extending sides; and
- a platform including side platform portions beside opposite sides of the cab and
- 7 extending longitudinally therealong, the platform further including a back platform
- 8 portion connected to at least one of the side platform portions and positioned at a higher
- 9 elevation than the side platform portions positioned between the cab and the grain tank,
- wherein the back platform portion defines a space therebeneath containing a front end of
- a rotor of a threshing system of the combine extending forwardly of the body of the
- combine, and wherein the cab, the grain tank, and the back platform portion define a
- passageway to allow an operator to visually monitor operating equipment from the higher
- 14 elevation.



United States Patent and Trademark Office

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| APPLICATION NO. | FI | LING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION | |
|--|------------|----------------|----------------------|------------------------|--------------|--|
| 10/619,972 | 07/15/2003 | | Robert A. Matousek | 12622 | 7832 | |
| 26637 | 7590 | 04/28/2005 | OIP E JOY | EXAM | INER | |
| CNH AMERICA LLC INTELLECTUAL PROPERTY LAW DEPARTMENT | | | TORRES, | TORRES, ALICIA M | | |
| 700 STATE | | DPERIY LAW DEI | PARTMENT 11 2 2 | ART UNIT | PAPER NUMBER | |
| RACINE, V | WI 53404 | | FRED & TRADEMEN | 3671 | | |
| | | | TRADE | DATE MAILED: 04/28/200 | 5 | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED

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CNH AMERICA LLC

Department

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|---|---|
| Application No. | Applicant(s) |
| 10/619,972 | MATOUSEK ET AL. |
| Office Action Summary 1 Examiner | Art Unit |
| Alicia M Torres | 3671 |
| The MAILING DATE of this communication appears on the cover si | neet with the correspondence address |
| A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimumous if NO period for reply is specified above, the maximum statutory period will apply and will expire SIX. - Failure to reply within the set or extended period for reply will, by statute, cause the application to be Any reply received by the Office later than three months after the mailing date of this communication earned patent term adjustment. See 37 CFR 1.704(b). | r, may a reply be timely filed Im of thirty (30) days will be considered timely. (6) MONTHS from the mailing date of this communication. In this come ABANDONED (35 U.S.C. § 133). |
| Status | |
| 1)⊠ Responsive to communication(s) filed on <u>06 April 2005</u> . 2a)□ This action is FINAL . 2b)⊠ This action is non-final. 3)□ Since this application is in condition for allowance except for formal closed in accordance with the practice under <i>Ex parte Quayle</i> , 193 | |
| Disposition of Claims | |
| 4) Claim(s) 1-21 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from considerati 5) Claim(s) is/are allowed. 6) Claim(s) 1-21 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirements. | |
| Application Papers | |
| 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objection of the drawing(s) be held in Replacement drawing sheet(s) including the correction is required if the control of the oath or declaration is objected to by the Examiner. Note the accepted of the control of the co | abeyance. See 37 CFR 1.85(a). drawing(s) is objected to. See 37 CFR 1.121(d). |
| Priority under 35 U.S.C. § 119 | |
| 12) Acknowledgment is made of a claim for foreign priority under 35 L a) All b) Some * c) None of: 1. Certified copies of the priority documents have been receiv 2. Certified copies of the priority documents have been receiv 3. Copies of the certified copies of the priority documents hav application from the International Bureau (PCT Rule 17.2(at * See the attached detailed Office action for a list of the certified copies. | ed. ed in Application No e been received in this National Stage)). |
| Attachment(s) | |
| 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) N | terview Summary (PTO-413) aper No(s)/Mail Date otice of Informal Patent Application (PTO-152) ther: |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Matousek et al., hereafter Matousek.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claims 1-16, Matousek discloses a harvesting combine comprising:

A body (14) including a housing (16) extending longitudinally along, and relative to, a forward direction of travel of the harvesting combine (10), the housing (16) having a front wall (29) extending generally transverse to the longitudinally extending body (14) and a rotary threshing assembly including a rotor (22) having a front end (23) located in front of the front wall (29);

A longitudinally extending cab (12) in front of and spaced-apart from the front wall (29), the longitudinally extending cab (12) having at least one longitudinally extending side (26); and

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A platform (40) comprising a rear platform portion (46), the rear platform portion (46) positioned in the space between the cab (12) and the body (14), the rear platform portion (46) extending along the front wall (29), which is generally transverse to the longitudinally extending body (14), wherein the cab (12), the body (14) and the rear platform portion (46) define a passageway to allow an operator to visually monitor and access the body (14) from the platform (40), the passageway and the rear platform portion (46) extending over the front end (23) of the rotor (22), the platform (40) further including at least one side platform portion (42) connected to the rear platform portion (46), the at least one side platform portion (42) located beside, and extending along, the at least one longitudinally extending side (26) of the cab (12), wherein the rear platform portion (46) and the at least one side platform portion (46) comprise at least one generally L-shape embodiment when viewed from the above (see Figure 6), as per claim 1; and wherein the cab (12) is supported on the combine (10) by a linkage assembly (82) movable for moving the cab (12) upwardly and rearwardly into the space and adjacent to the

front wall (29), as per claim 2; and

wherein the rear platform portion (46) is removable to allow the cab (12) to be positioned in the passageway above the front end (23) of the rotor (22, see Figure 9), as per claim 3; and wherein the rear platform portion (46) between the cab (12) and the body (14) is located at a higher elevation than the at least one side platform portion (42), as per claim 4; and

wherein the passageway has a width of approximately 18-20 inches (see column 4, lines 28-32), as per claim 5; and

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wherein the rear platform portion (46) is supported on a bridge (54) which has a generally inverted U-shape which extends over and defines a space containing the front end (23) of the rotor (22), as per claim 6; and

wherein the bridge (54) supports at least one step (48) at an elevation between the rear platform portion (46) and the at least one side platform portion (42), as per claim 7; and

comprising two (42, 44) of the at least one side platform portions beside opposite longitudinally extending sides of the cab (12), respectively, the side platform portions (42, 44) and the rear platform portion (46) together having a U-shape when viewed from above, as per claim 8; and

wherein the cab (12) includes a back wall (36), the back wall (36) including a transparent window (38) to provide the operator with enhanced visibility behind the cab (12), as per claim 9; and

wherein the passageway has a width of approximately 18-20 inches (see column 4, lines 24-28), as per claim 5; and

wherein the platform (40) includes a railing (43) extending upward from the platform (40) and along an outer perimeter of the platform (40), as per claim 10; and

wherein the combine (10) includes a frame (55) the platform (40) being attached to the frame (55), as per claim 11; and

wherein the platform (40) is positioned above two front wheels (60, 62) of the combine (10), as per claim 12; and

wherein the cab (12) includes a curved transparent front panel (34), as per claim 13; and

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wherein the curved transparent front panel (34) is comprised of glass, as per claim 14; and

wherein the body (14) includes a housing (16) and operating equipment (18, 20, 22), as per claim 15; and

wherein the operating equipment (18, 20, 22) includes a loop elevator assembly (18) and a grain tank (20), as per claim 16.

Regarding claim 17, Matousek discloses a device wherein the following method for visually monitoring a harvesting combine is inherent, the method comprising:

Providing a harvesting combine (10) including a longitudinally extending body (14), relative to a forward direction of travel of the harvesting combine (10), the body (14) including a housing (16) and operating equipment (18, 20, 22) including at least a grain tank (20), a longitudinally extending cab (12) spaced-apart from and in front of the body (14), the longitudinally extending cab (12) having at least one longitudinally extending side (26), a platform (40) including at least one side platform portion (42) positioned beside the cab (12) and extending along the at least one longitudinally extending side (26) of the cab (12), and an elevated back platform portion (46) connected to the at lest one side platform portion (42) and positioned between the cab (12) and the body (14) at an elevation higher than the side platform portion (42), wherein the cab (12), the body (14), and the elevated back platform portion (46) define a passageway; and

Visually monitoring the operating equipment (18, 20, 22) from the elevated back platform portion (46).

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Regarding claims 18-20, Matousek discloses a device wherein the following method for visually monitoring a harvesting combine is inherent, the method comprising:

Providing a harvesting combine (10) including a longitudinally extending body (14), relative to a forward direction of travel of the harvesting combine (10), the body (14) including a housing (16) and operating equipment (18, 20, 22) including a grain tank (20), a longitudinally extending cab (12) spaced-apart from and forwardly of the body (14), the longitudinally extending cab (12) having at least one longitudinally extending side (26), a platform (40) including at least one side platform portion (42) positioned beside the cab (12) and extending along the at least one longitudinally extending side (26) of the cab (12), and an elevated back platform portion (46) connected to the at least one side platform portion (42) and positioned between the cab (12) and the body (14) wherein the cab (12), the body (14), and the elevated back platform portion (46) define a passageway; and

Accessing the operating equipment (18, 20, 22) from the elevated back platform portion (46), as per claim 18; and

Wherein the cab (12) includes a back wall (36), the back wall including a transparent window (38); and

Visually monitoring the operating equipment (18, 20, 22) from the cab (12), as per claim 19; and

Wherein the transparent window (38) is comprised of glass, as per claim 20.

Regarding claim 21, Matousek discloses a cab arrangement for a harvesting combine comprising:

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A harvesting combine (10) including a longitudinally extending body (14), relative to a forward direction of travel of the harvesting combine (10), having a grain tank (20);

A longitudinally extending cab (12) spaced-apart from the grain tank (20), the longitudinally extending cab (12) having opposite longitudinally extending sides (26, 28); and

A platform (40) including side platform portions (42, 44) beside the opposite sides of the cab (12) and extending longitudinally therealong, the platform (40) further including a back platform portion (46) connected to at least one of the side platform portions (42, 44) and positioned at a higher elevation than the side platform portions (42, 44) positioned between the cab (12) and the grain tank (20), wherein the back platform portion (46) defines a space therebeneath containing a front end (23) of a rotor (22) of a threshing system of the combine (10) extending forwardly of the body (14) of the combine (14), and wherein the cab (12), the grain tank (20), and the back platform portion (46) define a passageway to allow an operator to visually monitor operating equipment (18, 20, 22) from the higher elevation.

Response to Arguments

Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.

/T/holg/als//BV Will

Group Art Unit 3671

AMT April 25, 2005

Notice of References Cited

Application/Control No.

10/619,972

Examiner

Alicia M Torres

Applicant(s)/Patent Under
Reexamination
MATOUSEK ET AL.

Page 1 of 1

U.S. PATENT DOCUMENTS

| * | | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Name | Classification |
|---|---|--|-----------------|------------------|----------------|
| | Α | US-6,875,103 | 04-2005 | Matousek et al. | 460/150 |
| | В | US-4,480,397 | 11-1984 | Vachon, Rene | 37/234 |
| | С | US- | | 0. 0. | |
| | D | US- | | 101 2 2 2016 E | |
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NON-PATENT DOCUMENTS

| * | | Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages) |
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^{*}A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)

Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.